

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                    |   |           |
|--------------------|---|-----------|
| DAVID CARL PHELPS, | ) | 8:14CV151 |
|                    | ) |           |
| Petitioner,        | ) |           |
|                    | ) |           |
| v.                 | ) | ORDER     |
|                    | ) |           |
| SCOTT FRAKES,      | ) |           |
|                    | ) |           |
| Respondent.        | ) |           |
| _____              | ) |           |

IT IS ORDERED:

1. Petitioner's Application for Certificate of Appealability (Filing No. [48](#)), treated as a motion for reconsideration, is denied.
2. Petitioner's appeal appears to be taken in good faith, and, pursuant to FRAP 24(a)(3), he may proceed in forma pauperis.
3. The clerk is directed to process the appeal and to provide a copy of this order to the United States Court of Appeals for the Eighth Circuit.

DATED this 31<sup>st</sup> day of October, 2016.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge